

REMARKS

The Office Action of February 4, 2010 was received and carefully reviewed. Claims 1-21 were pending prior to this amendment. By this amendment, claim 9 has been canceled without prejudice. Consequently, claims 1-8 and 10-21 are currently pending. Claims 1-7, 18 and 20 are withdrawn. Amendment is made to claim 8 to incorporate the limitations recited in the original claim 9. No new matter has been introduced through this amendment.

In the Office Action, the examiner has rejected claims 8-17, 19 and 21 under 35 U.S.C. § 102(a) as being anticipated by JP 2004-63367 to Abe et al. ("Abe"). Applicants respectfully traverse these rejections at least for the reasons advanced in detail below.

Abe reference (JP 2004-63367) was published on February 26, 2004. The instant application is the national stage entry of the international application PCT/JP2004/016749, filed November 11, 2004. Priority is claimed under 35 U.S.C. § 119 to two priority documents, among them one is JP 2004-025833, filed February 2, 2004. A certified copy of this priority document has been submitted and made of record in PCT/JP2004/016749. At the very least, JP 2004-025833 provides support for the amended independent claim 8 (See, e.g., claims 4, 5 and 6 of the English translation document of JP 2004-025833, submitted herewith), and antedates the publication date of the Abe reference.

Applicants enclose a verified English translation of JP 2004-025833, the priority document as referenced above to antedate the publication date of the Abe reference. The submission of the document has satisfied the requirement set forth in 37 C.F.R. § 1.55 and perfects the foreign priority claim to this priority document. Once the priority document have been taken into consideration, it is clear that Abe does not qualify as prior art under 35 U.S.C. § 102(a).

In sum, the Abe reference, as a published Japanese application, fails to qualify as prior art to this application under 35 U.S.C. § 102(a). Applicants therefore respectfully request that the examiner withdraw this rejection.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 19-2380. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,
NIXON PEABODY LLP

/ Jeffrey L. Costellia, Reg. #35,483/
Jeffrey L. Costellia
Registration No. 35,483

NIXON PEABODY LLP
CUSTOMER NO.: 22204
401 9th Street, N.W., Suite 900
Washington, DC 20004
Tel: 202-585-8000
Fax: 202-585-8080